

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GLENN HAMMOND,

Defendant-Appellant.

UNPUBLISHED

June 16, 1998

No. 182774

Genesee Circuit Court

LC No. 94-051007 FH

Before: Wahls, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

Defendant appeals by right his guilty plea based conviction for receiving and concealing stolen property in excess of \$100, MCL 750.535; MSA 28.803, and habitual offender, second offense, MCL 769.10; MSA 28.1082. We affirm.

Defendant pleaded guilty under a plea agreement pursuant to *People v Cobbs*, 443 Mich 276; 505 NW2d 208 (1993). The prosecutor agreed to drop a habitual offender, third offense charge, and the court agreed to sentence defendant to no more than twelve months' incarceration. Defendant was advised that he would be allowed to withdraw his plea if the sentence exceeded that amount. Defendant was sentenced to a term of 6 months to 7½ years' imprisonment.

Defendant argues that the trial court abused its discretion in denying his motion to withdraw his guilty plea. Defendant asserted that the sentence imposed exceeded the *Cobbs* agreement, because the maximum term of imprisonment exceeded twelve months.

There is no absolute right to withdraw a guilty plea once it has been accepted by the court. *People v Effinger*, 212 Mich App 67, 69; 536 NW2d 809 (1995). When a motion to withdraw a guilty plea is brought after sentencing, a trial court's decision will not be reversed absent a clear abuse of discretion resulting in a miscarriage of justice. *Id.*

The trial court did not abuse its discretion in finding that the record established that defendant was aware that the sentencing agreement was limited to the minimum sentence. Defendant was advised of the maximum sentence, and expressed an understanding of the nature of minimum and maximum

sentences. Defendant and counsel both were aware of the implications of the agreement, and based on the totality of the circumstances, it is clear that the plea was knowing and voluntary. Defendant was properly sentenced in accord with his plea agreement.

Affirmed.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage